

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

THOMAS E. PEREZ, SECRETARY OF
LABOR, UNITED STATES
DEPARTMENT OF LABOR,

Plaintiff,

v.

PAN-AMERICAN BERRY GROWERS,
LLC, an Oregon limited liability company,

Defendant.

6:12-cv-1474-TC (Lead Case)
6:12-cv-1566-TC (Trailing Case)
6:13-cv-1439-TC (Trailing Case)

ORDER

MCSHANE, Judge:

Magistrate Judge Thomas M. Coffin filed a Findings and Recommendation (ECF No. 48), and the matter is now before this court. *See* 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Plaintiff filed objections to the Findings and Recommendation. Accordingly, I have reviewed the file of this case *de novo*. *See* 28 U.S.C. § 636(b)(1)(c); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). I find no error and conclude the report is correct.

Plaintiff largely recites arguments made in its opposition to the motions to vacate. I agree with Judge Coffin that the unique circumstances in this case warrant granting defendants' motions to vacate. Plaintiff appears to believe Judge Coffin took issue with the Department of Labor's general practices regarding "hot goods objections." If so, I disagree.

The unique situation here involved a "hot goods objections" to a highly perishable product at peak harvest. As noted by Judge Coffin, additional delays, even of mere days, threatened to cripple the growers. Additionally, the Department of Labor had recently changed the implementation (and remedy) of its policy. Under these circumstances, defendants had no choice but to agree to the consent judgments. I agree with Judge Coffin that any delay in filing the motion to vacate was reasonable under the circumstances.

Magistrate Judge Coffin's Findings and Recommendation (ECF No. 48) is adopted in full. Defendants' motions to vacate their respective consent judgments (ECF No. 5 in 12-1474-TC and ECF No. 5 in 12-1566-TC) are GRANTED. The Department of Labor's motion to dismiss (ECF No. 32 in 13-14390TC) is GRANTED.

IT IS SO ORDERED.

DATED this 24th day of April, 2014.



Michael J. McShane
United States District Judge